

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

**This document relates to:**

*County of Lake, Ohio v. Purdue  
Pharma L.P., et al.,*  
Case No. 18-op-45032 (N.D. Ohio)

*County of Trumbull, Ohio v. Purdue  
Pharma, L.P., et al.,*  
Case No. 18-op-45079 (N.D. Ohio)

“Track 3 Cases”

**MDL No. 2804**

**Case No. 17-md-2804**

**Judge Dan Aaron Polster**

**PLAINTIFFS’ BRIEF IN OPPOSITION TO DEFENDANTS’ MOTION TO EXCLUDE  
CERTAIN EXPERT TESTIMONY BASED ON TRACK ONE ARGUMENTS**

Defendants move to exclude the testimony of Plaintiffs' experts Caleb Alexander, David Cutler, Lacey Keller, Katherine Keyes, Anna Lembke, Craig McCann, James Rafalski, and Nancy Young for reasons the Court rejected in Track One. Defs.' Motion, ECF No. 3797; *see* Opinion and Order (Aug. 20, 2019) (denying motion to exclude Keller testimony), ECF No. 2492; Opinion and Order (Aug. 20, 2019) (denying in part motions to exclude Rafalski and McCann testimony), ECF No. 2494; Order (Aug. 26, 2019) (denying motion to exclude "gateway" testimony), ECF No. 2518; Order (Aug. 26, 2019) (denying motion to exclude abatement testimony), ECF No. 2519; Order (Aug. 26, 2019) (denying motion to exclude Cutler testimony), ECF No. 2542; Opinion and Order (Aug. 28, 2019) (denying in part motion to exclude marketing causation testimony), ECF No. 2549. The Court was right to reject Defendants' arguments in Track One and should adhere to those rulings in Track Three. *See* Track Three Case Management Order 1 n.2 (June 5, 2020) ("the Court intends to adhere to all rulings made in Track 1"), ECF No. 3325.

Plaintiffs' experts' testimony is admissible under Federal Rule of Evidence 702. For the reasons set forth in Track One plaintiffs' briefs in opposition to Track One defendants' motions to exclude, Plaintiffs' experts are qualified, their opinions are the product of reliable methods reliably applied, and their specialized knowledge will help the trier of fact. Plaintiffs here incorporate by reference the arguments contained in the following Track One opposition briefs: Pls.' *Daubert* Roadmap Brief, ECF No. 2164; Pls.' Marketing Causation Opposition, ECF No. 2166; Pls.' Abatement Opposition, ECF No. 2175; Pls.' "Gateway" Opposition, ECF No. 2197; Pls.' Keller Opposition, ECF No. 2207; Pls.' Cutler Opposition, ECF No. 2209; Pls.' Consolidated McCann & Rafalski Opposition, ECF No. 2260.

For the reasons given above, Defendants' motion should be denied in full.

Dated: August 18, 2021

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 18, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF system.

/s/Peter H. Weinberger  
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